IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO. 301 OF 1998

Hariram K. Barot ..... Appellant

versus

Special Land Acquisition Officer)
Ulhas Valley Project, Thane & anr). .. Respondent.

ALONGWITH

CIVIL APPLICATION NOS. 1909 OF 2000 & 1910 of 2000

IN

FIRST APPEAL (St.) NO. 17263 OF 1998

The State of Maharashtra)
through Special Land Acquisition)
Officer, Ulhas Valley,Thane) ..... Applicants.

versus

M/s. Harilal & Khimkaran & Co.)
Ahmedabad,.) ..... Respondents.

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Mr. Nitin Mhatre i/b. A.K. Abhyankar for the applicant.
Mr. B.R.Patil AGP for Respondent.

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CORAM ; D.G. DESHPANDE, J.

DATED; 29TH MARCH, 2005.

ORAL ORDER ;

1. Heard both the advocates. Appeal No.301 of 1998 is filed by the claimant and the Appeal St. No. 17263/98 is filed by the State.

2. The impugned order in the above appeals is common i.e. the order dated 29th August 1996 by the Joint District Judge, Thane. It is an order under reference under the Land Acquisition Act. The State has challenged the enhancement whereas the claimant has challenged the order on the ground that the compensation awarded by the Reference Court was inadequate.

3. The land acquired in this case was two acres from Survey No.137. The Reference Court, as submitted by the claimant before it, relied upon the judgment in Reference No. LAR 201 of 1987 where the land was from village Pawne was acquired and compensation was given at Rs. 10/- per sq. meter for the year 1966. The learned counsel for the appellant therefore contended that if that is the basis then the claimants would be entitled to 10% escalation of the price upto 4th July 1979. However, even though the Reference Court relied upon this judgment in earlier Reference No. LAR/201 of 1987 and the compensation was fixed at Rs. 15/- per sq. yard without any reasons.

4. If for fixing the compensation, the court has relied upon the earlier reference, then admittedly the

prices given in that reference has to be taken as basis and then the claimant has to be awarded escalation at Rs. 10/- per annum. The period of 13 years has elapsed from 1966 to 1979 and therefore the prices in this case, which compensation the claimant is entitled to, comes to Rs. 31 per sq. meter or sq. yard. Therefore this appeal is to be allowed to that extent. At the same time since the claim for enhancement is upheld, the State appeal is required to be dismissed.

Hence I pass the following order.

ORDER

5. Civil Application No. 1909/00 for condonation of delay in filing appeal is allowed. Delay condoned. The State appeal is admitted and decided as per the order above.

6. F.A. St. No.. 17263/98 is dismissed with no order as to costs.

7. Civil Application No. 1910/00 for stay does not survive and it is dismissed.

8. F.A. No.301/98 is partly allowed. The order of the Reference Court is modified. The

claimant/appellant will be entitled to compensation at the rate of Rs. 31/- per sq. meter in respect of the acquired land with consequential rise and solatium in the interest at 9% per annum. No order as to costs.

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